

UNITED STATES DISTRICT COURT		
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA		
B. P., a minor, c/o FRIEDMAN SCHUMAN	:	
	:	
	:	NO. 1:23-cv-01276-SES
and	:	
	:	
ANTHONY AND KRISTEN	:	
P., c/o FRIEDMAN	:	
SCHUMAN,	:	
Plaintiffs	:	
	:	
v.	:	
	:	
CHAMBERSBURG AREA SCHOOL	:	JURY TRIAL DEMANDED
DISTRICT, DION BETTS,	:	
SUPERINTENDENT, MARK LONG,	:	
ASSISTANT SUPERINTENDENT,	:	
JANILYN ELIAS, ASSISTANT	:	
SUPERINTENDENT and KURT	:	
WIDMANN, ASSISTANT	:	
SUPERINTENDENT	:	
	:	
and	:	
	:	
BENJAMIN A. DURAN-TOBIAS,	:	
	:	
Defendants	:	

MOTION FOR PARTIAL DISMISSAL OF COMPLAINT

Moving Defendants, Chambersburg Area School District, Dion Betts [former]
Superintendent, Mark Long, Janilyn Elias [former] Assistant Superintendent, and

Kurt Widmann, Assistant Superintendent, through counsel, MARSHALL DENNEHEY, hereby request this Honorable Court to dismiss a portion of Plaintiffs' Complaint and in support thereof state the following.

1. Plaintiffs, and each of them, filed a Complaint alleging legal responsibility of the Defendants, Chambersburg Area School District and its former and current administrators for damages sustained as the result of sexual misconduct perpetrated upon B.P., a minor, by Defendant Benjamin Duran-Tobias during the school year 2022. [DOC. 1]
2. Plaintiffs, and each of them, have alleged in Count II that Moving Defendants are liable under a Fourteenth Amendment *Monell* theory for various failures to act as legally required.
3. Plaintiffs, and each of them, have alleged in Count III that Moving Defendants are liable under a Fourteenth Amendment *state-created danger theory* allegedly for the same failures to act as set forth in Count II.
4. Plaintiffs, and each of them, have alleged in Count V that Moving Defendants are negligent, allegedly for the same failures to act as set forth in Count II.
5. Plaintiffs, Anthony and Kristen P., have alleged in Count III, that Moving Defendants are liable to them under a theory of *negligent infliction of emotional distress* and have also made claims for punitive damages.

6. Plaintiffs, and each of them, have failed to state claims under *any* theory of liability against the individual Defendants, Betts, Long, Elias and Widmann.
7. Plaintiff, B.P., has failed to state a claim against the Defendant Chambersburg Area School District under Counts II, III, IV, V and VIII of the Complaint.
8. Defendants submit that Plaintiffs' allegations in each of the foregoing counts fall below the pleading requirements of *Iqbal* and *Twombly* and FRCP 12(b)(6).

WHEREFORE, for the reasons set forth above and as more fully set forth in the accompanying Memorandum of Law, Moving Defendants request this Honorable Court to enter an Order GRANTING their Motion for Partial Dismissal of the Complaint with prejudice.

Respectfully submitted:

MARSHALL DENNEHEY

BY: /s/ Sharon M. O'Donnell
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October 5, 2023

CERTIFICATE OF SERVICE

I, Sharon M. O'Donnell, Esquire hereby certify that a true and correct copy of the foregoing document was electronically filed with the Court this date and is available for viewing and downloading from the ECF System.

MARSHALL DENNEHEY

DATE: October 6, 2023

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